



September 29, 1989

Itel Rail Corporation

55 Francisco Street
San Francisco, California 94133
(415) 984-4000
(415) 781-1035 Fax

16558/A

OCT 4 1989 - 12 05 PM

INTERSTATE COMMERCE COMMISSION

Hon. Noreta R. McGee
Secretary
Interstate Commerce Commission
Washington, DC 20423

Re: **Schedule No. 1 to Master Lease Agreement dated September 19, 1989, between Itel Rail Corporation and MidLouisiana Rail Corporation**

Dear Ms. McGee:

On behalf of Itel Rail Corporation, the above instrument, in three (3) counterparts, is hereby submitted for filing and recording pursuant to 49 U.S.C. section 11303(a), along with the \$15 recordation fee.

Please record this Schedule under the Master Lease Agreement dated as of September 19, 1989, between Itel Rail Corporation and MidLouisiana Rail Corporation, which is being filed with the ICC simultaneously this date.

The parties to the aforementioned instrument are listed below:

Itel Rail Corporation (Lessor)
55 Francisco Street
San Francisco, California 94133

MidLouisiana Rail Corporation (Lessee)
P. O. Drawer 550, Highway 167
Hodge, Louisiana 71247

This Schedule adds to the Master Lease Agreement (i) seventy-two (72) 60'10", 100-ton, Plate E, XM boxcars bearing reporting marks NLG 7101-7229 (n.s.); and (ii) twenty-eight (28) 60'10", 100-ton, Plate C, XM boxcars bearing reporting marks NLG 7150-7179 (n.s.).

Please return to the undersigned the stamped counterparts not required for filing purposes, together with the ICC fee receipt and acknowledgment letter.

Very truly yours,

patricia schumacker
Patricia Schumacker
Legal Assistant

16558

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SCHEDULE NO. 1

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INTERSTATE COMMERCE COMMISSION

THIS SCHEDULE No. 1 ("Schedule") to that certain Lease Agreement, (the "Agreement") made as of September 19, 1989 between ITEL RAIL CORPORATION, as lessor ("Lessor"), and MIDLOUISIANA RAIL CORPORATION, as lessee ("Lessee") is made this 19th day of September, 1989, between Lessor and Lessee.

R E C I T A L S:

- A. Lessor and Lessee are parties to the Lease Agreement dated as of September 24, 1984 ("Old Lease"), as amended, pursuant to which two hundred sixty-nine (269) boxcars currently bearing reporting marks from within the series NLG 5801-6000, NLG 7101-7122 and NLG 7180-7229 were leased by Lessor to Lessee.
- B. Lessor as sublessor and Lessee as sublessee are parties to the Sublease Agreement dated as of September 24, 1984 ("Sublease"), as amended, pursuant to which seventy-seven (77) boxcars currently bearing the reporting marks from within the series NLG 5601-5650 and NLG 7150-7179 were subleased by Lessor to Lessee.
- C. Lessor desires to provide to Lessee the option to change the mechanical designation with respect to the boxcars bearing the reporting marks from within the series NLG 7101-7122, 7180-7229, and 7150-7179 ("Designated Boxcars").
- D. The parties desire to change the rental with respect to the Designated Boxcars.
- E. The parties desire to terminate the Old Lease and the Sublease with respect to the Designated Boxcars and enter into a new agreement as provided herein.

Lessor and Lessee agree as follows:

- 1. All capitalized terms defined in the Agreement shall have the meanings defined therein when used in this Schedule No. 1, except that the term "Cars" as used herein shall only refer to the equipment described in this Schedule unless otherwise indicated.
- 2. Effective upon Delivery (as defined in Section No. 4 hereinbelow) the Old Lease and the Sublease will terminate with respect to the Designated Boxcars.
- 3. Lessor hereby leases the following Cars to Lessee subject to the terms and conditions of the Agreement and this Schedule:

AAR Mech Desig.	Description	Numbers	Length	Dimensions			Doors Width	No. of Cars
				Inside Width	Height			
XM	100-Ton, Plate E, 15" End-of-Car Cushioning, Boxcars	NLG 7101-7122, 7180-7229	60'10"	9'6"	11'5"		10' Sliding	72
XM	100-Ton, Plate C, 15" End-of-Car Cushioning, Boxcars	NLG 7150-7167, 7169-7175, 7177-7179	60'10"	9'6"	11'0"		12' Plug	28

4. The term of the Agreement with respect to each Car described in this Schedule shall be deemed to have commenced on August 1, 1989 ("Delivery") and will expire at the close of business on (a) August 25, 1990 with respect to the Cars bearing the reporting marks NLG 7101-7122; (b) January 30, 1991 with respect to the Cars bearing the reporting marks NLG 7180-7229; and (c) February 14, 1990 with respect to the Cars bearing the reporting marks from within the series NLG 7150-7179 (each such period an "Initial Term").
5. If the Agreement has not been terminated early and no unremedied default has occurred and is continuing under the Agreement, the Agreement shall automatically be extended for up to five (5) consecutive periods of twelve (12) months each (each such period an "Extended Term") with respect to all of the Cars described in this Schedule, provided that Lessor or Lessee may terminate the Agreement at the end of the Initial Term or any Extended Term as to some or all of the Cars described in this Schedule by providing not less than twelve (12) months' prior written notice to the other.
6. Lessee agrees to pay the rent set forth in the Agreement, notwithstanding the fact that Lessee may not have immediate physical possession of the Cars leased hereunder.
7. During the term of the Agreement with respect to the Cars described in this Schedule, Lessee may, at its option, at its expense, in accordance with the AAR Interchange Rules and upon securing AAR approval, change the mechanical designation of any Car from "XM" to "XP" or from "XP" to "XM" by remarking any such Car to bear the letters "XP" or "XM", as the case may be ("Modification"). In the event that the AAR requests information with respect to any Modification, Lessee shall be responsible for providing such information to the AAR. Upon the expiration or early termination of the Agreement with respect to any Car which has been remarked to "XP" ("XP Car") at Lessor's option, Lessee shall, at its expense, remark any such XP Car to XM.

8. Upon the Modification of any Car, Lessee shall provide to Lessor, on a weekly basis, a Certificate of Modification in the form of Exhibit A attached hereto, which shall show the reporting marks, number and the date of Modification for each Car that underwent Modification during such week.
9. During the term of the Agreement with respect to any XP Car (as defined in Section 7 hereinabove), Lessee may, at its sole option, place into or remove from an assignment pool on the lines of another railroad or the property of a shipper ("Placement or Removal") any XP Car. Upon the Placement or Removal of any XP Car, Lessee shall provide to Lessor, within five (5) days of such Placement or Removal, written notification showing the reporting marks and number of each XP Car, name of the railroad or shipper (including the railroad line on which shipper is located) and the city and state where such railroad or shipper is located. In the event Lessor misroutes any bad order XP Car due to Lessee's failure to notify or to provide correct information to Lessor with respect to any Placement or Removal, Lessee shall be responsible for all costs, charges and expenses relating to the misrouting of such bad order XP Car. If Lessor is required to pay any such amount, Lessee shall reimburse Lessor within thirty (30) days of receiving an invoice from Lessor for such amount.
10.
 - A. Lessor shall perform the registration and record keeping required for the Cars described in this Schedule, as described in Section 4 of the Agreement. Lessee hereby authorizes Lessor to subscribe to the car hire data exchange tape, Train 62 Junction Advices, and the Train 65, 67 and 80 Advices with respect to the Cars and agrees to execute any documents necessary to implement such authorization. If, for any reason, Lessor does not subscribe to Train 65 and 67 Advices, Lessee shall, within ten (10) days after the close of each calendar month, supply Lessor with copies of Lessee's interchange records with respect to Cars interchanged to and from Lessee's railroad line.
 - B. Lessee shall provide Lessor with the UMLER passkey necessary for registering such Cars and shall authorize Lessor to receive the UMLER Fleet Tape. Lessee shall, within thirty (30) days of notification that Lessor has paid a car repair bill for equipment bearing reporting marks not leased to Lessee by Lessor or for which Lessee is responsible for the cost of maintenance as set forth in the Agreement (or any other agreement between Lessor and Lessee), Lessee shall reimburse Lessor for any amount paid.
 - C. Lessor shall perform car hire accounting for any equipment acquired or leased by Lessee from a party other than Lessor, which equipment bears the same reporting marks as any Car for which Lessor performs car hire accounting ("Other Equipment"). Such car hire accounting shall be performed upon terms to be agreed upon between the parties, which terms shall be set forth in a separate car hire service agreement ("Car Hire Agreement"). Under such Car Hire Agreement, Lessor shall, on behalf of Lessee, receive car hire rental and other payments relating to the use and handling of the Other Equipment by other railroads ("Funds") and shall deposit the Funds into an Agency Bank Account for the purpose of segregating the Funds from the Revenues (as defined in Section 11 hereinbelow) relating to the Cars so as to ensure that the interests of both Lessor and Lessee are

protected. Such Car Hire Agreement shall provide that Lessee shall pay Lessor on a monthly basis a fee which is mutually agreeable to Lessor and Lessee.

11. Lessor shall perform or cause to be performed and shall pay all costs and expenses associated with the maintenance of the Cars described in this Schedule, except as set forth in Section 5 of the Agreement. With respect to the Cars listed in this Schedule, Exhibit B attached hereto is hereby added to the Agreement.
12. Lessor agrees to reimburse Lessee, within thirty (30) days of Lessor's receipt of the receipted copy of the paid tax bill, for all taxes actually paid in cash by Lessee resulting from: a) ad valorem tax assessments on the Cars; and b) any assessment, levy or impost relating to any Car, the Agreement, or the delivery of the Cars, which remained unpaid as of the date of the delivery of the Cars to Lessee or which is assessed, levied or imposed during the term of the Agreement, except taxes on income or gross receipts imposed on Lessee or sales or use tax imposed on mileage charges, car hire revenue, or the proceeds of the sale or lease of the Cars. Lessor and Lessee will comply with all state and local laws requiring filing of ad valorem returns associated with the Cars. Notwithstanding any portion of this Section, Lessor shall not be responsible for penalty or interest assessments resulting from Lessee's failure to comply with any regulation or statute of any taxing or assessing authority. Lessee shall forward to Lessor upon receipt all correspondence, notifications of proposed tax assessments and tax bills associated with any tax reimbursable by Lessor. Lessor may, in good faith and by appropriate proceedings, contest any assessment, notification of assessment or tax bill. Lessor shall assume full responsibility for all expenses, including legal fees, resulting from such contest.

13. Rent

A. Definitions

- (i) "Eligible Lines" is defined as the railroad lines owned and operated by Lessee, SouthRail Corporation and MidSouth Rail Corporation as of the date this Schedule is executed by the parties. Any lines purchased by Lessee or added to the Eligible Lines or any Eligible Lines sold by Lessee to another party during the Initial Term or any Extended Term, effective on the date of such sale, are deemed to be the lines of another railroad company (a foreign road) for the purposes of determining Per Diem Revenues (as defined in Subsections 13.A.(iv) hereinbelow).
- (ii) "Eligible Lines" is defined as the railroad lines owned and operated by Lessee as of the date this Schedule is executed by the parties. Any lines purchased by Lessee or added to the Eligible Lines or any Eligible Lines sold by Lessee to another party during the Initial Term or any Extended Term, effective on the date of such sale, are deemed to be the lines of another railroad company (a foreign road) for the purposes of determining Mileage Revenues (as defined in Subsections 13.A.(v) hereinbelow)

- (iii) "Revenue Rates" is defined as the hourly and mileage car hire rates prescribed for excluded boxcars in the Appendix to the ICC's decision in ICC Ex Parte No. 346, Sub-No. 19, served September 12, 1986, as found at paragraph (c)(3) of 49 C.F.R. 1039.14.
- (iv) "Per Diem Revenues" is defined as the total per diem revenues, calculated at the Revenue Rates, that are earned or due for the use and handling of the Cars on all railroad lines other than the Eligible Lines, including, but not limited to, per diem, whether or not collected and received by Lessor, and undiminished by any claimed abatement, reduction or offset caused by any action or failure of Lessee.
- (v) "Mileage Revenues" is defined as the total mileage revenues, calculated at the Revenue Rates, that are earned or due for the use and handling of the Cars on all railroad lines other than the Eligible Lines, including, but not limited to, mileage, whether or not collected and received by Lessor, and undiminished by any claimed abatement, reduction or offset caused by any action or failure of Lessee.
- (vi) "Revenues" is defined as the sum of Per Diem and Mileage Revenues.
- (vii) The "Guaranteed Base Rent" is defined as the rental per calendar month ("Month") as provided in Exhibit C attached hereto. (

Revenue Rates.) The Guaranteed Base Rent for any Car which is not subject to the Agreement for an entire Month shall be prorated at the daily rental, as provided in Exhibit C attached hereto, for such Car during such Month.

B. Lessee agrees to pay rent to Lessor for the Cars calculated as follows:

- (i) In the event _____ in any Month or applicable portion thereof are equal to or less than the Guaranteed Base Rent, Lessor shall receive

and Lessee shall pay Lessor the difference ("Difference") between the Guaranteed Base Rent and the _____. Lessee shall pay Lessor such Difference not later than thirty (30) days after receiving an invoice from Lessor for such Difference.

- (ii) In the event _____ or applicable portion thereof are equal to or exceed the Guaranteed Base Rent, Lessor shall receive

(iii)

- C. (i) In the event that as a result of any action or inaction by Lessee, Lessor shall receive or earn for the use of any Cars, _____ calculated at _____ car hire rates that are lower in amount than those specified in _____, Lessee shall pay to Lessor, within ten (10) days of Lessor's request, an amount equal to the difference between the _____ such Cars would have earned at the Revenue Rates and the amount of _____ actually received or earned for such Cars.
- (ii) Should any abatement, reduction or offset occur as a result of any action or inaction of Lessee, Lessee shall, within ten (10) days of Lessor's request, reimburse Lessor the amount of such abatement, reduction or offset.
- (iii) If, at any time during the Agreement, Lessee operates lines other than the Eligible Lines, Lessee shall supply Lessor with records which distinguish the movement of each Car on the Eligible Lines from the movement of such Car on any other lines operated by Lessee.
- D. Any agreement between Lessee and any other party with respect to the Cars ("Third Party Agreement(s)") shall be null and void without Lessor's prior written approval if such Third Party Agreement affects the revenues earned by the Cars.
- E. The calculations required in Section 13 shall be made within five (5) months of the end of each calendar year ("Final Calculations"). Lessor shall, prior to making such Final Calculations, retain the Revenues and other payments received by it on behalf of Lessee. Further, since the parties desire to determine on a quarterly year-to-date basis the approximate amount owed under this Section 13, Lessor shall within three (3) months after the end of each calendar quarter, calculate on a quarterly year-to-date basis the amounts due both parties pursuant to this Section. Any amounts payable pursuant to the preceding sentence shall be paid not later than thirty (30) days following such calculation, provided, however, that within thirty (30) days following the Final Calculations, any amount paid to either party in excess of the amounts required shall be refunded to the appropriate party.
- F. Lessee shall not discriminate against similar boxcars leased by Lessor to Lessee, MidSouth Rail Corporation or SouthRail Corporation that are subject to rentals based upon utilization rates ("Similar Boxcars"), in the provision of off-line loads, operations, use and maintenance, or in any other manner, vis-a-vis the Cars. In the event the utilization rate with respect to the Similar Boxcars is negatively affected as a result of any such discrimination by Lessee, then Lessor may, at Lessor's option, place such Similar Boxcars into bilateral agreements providing for the loading of any such Similar Boxcars by a third party.

14. A. Lessee agrees to defend, indemnify and hold Lessor harmless from any and all claims, losses, damages, liabilities, costs, and expenses (including attorney's fees) with respect to, caused by, or arising out of the Cars which are occasioned by the fault of Lessee, occur while the Cars are in Lessee's possession or control, or would be the "handling carrier's" responsibility under the Interchange Rules if the Cars were not bearing Lessee's reporting marks.
- B. Except as provided in Subsection 14.A. above, and except for those claims, losses, damages, liabilities and expenses for which Lessee shall be responsible as set forth in this Agreement, Lessor shall indemnify and hold Lessee harmless from any and all loss, damage or destruction of or to the Cars, ordinary wear and tear excepted.
- C. The indemnities and assumptions of liability contained in this Agreement shall survive the expiration or termination of the Agreement.
15. Upon the expiration or termination of the Agreement with respect to the Car(s) described in this Schedule, if some or all of the Cars are to be delivered to Lessor at Lessee's railroad tracks, Lessee shall be responsible for any transportation costs incurred in moving such Cars to said tracks subsequent to the time of expiration of this Agreement as to the Cars. Lessee shall, at Lessor's option, provide up to one hundred twenty (120) days' free storage on its railroad tracks for any Car which is either on Lessee's railroad tracks at expiration or is subsequently returned to Lessee's railroad tracks. Said one hundred twenty (120) days shall run either from expiration or from the date such Car is returned to Lessee's railroad line subsequent to expiration, whichever date is later. If requested to do so by Lessor, Lessee shall, at Lessor's option, either move a remarked Car to an interchange point on Lessee's lines selected by Lessor or use its best efforts to load the remarked Car with freight and deliver it to a connecting carrier for shipment.
16. Except as expressly modified by this or any other Schedule, all terms and provisions of the Agreement shall remain in full force and effect with respect to all Cars subject to the Agreement.
17. This Schedule may be executed by the parties hereto in any number of counterparts, and all counterparts taken together shall be deemed to constitute one instrument.

ITEL RAIL CORPORATION

By: Robert Krehule
Title: Vice President and Treasurer
Date: September 19, 1989

MIDLOUISIANA RAIL CORPORATION

By: H. J. Salter
Title: VP & CTO
Date: 9/12/89

EXHIBIT A

CERTIFICATION OF MODIFICATION/REMARK

Car Reporting Marks
and Number

Date of Modification

MIDLOUISIANA RAIL CORPORATION
Authorized Representative

By: H. J. Sabin

Title: VP & CTO

Date: 9/12/89

EXHIBIT B

Running Repairs: Boxcars

Angle Cocks	Wheel Assemblies
Air Hose	Yokes
Train Line	Knuckles/Pins
Operating Levers and Brackets	Slack Adjuster
Sill Steps	Couplers
Grab Irons	Draft Gears
Brake Shoes	Coupler Carriers
Brake Shoe Keys	Center Plate Repair (Not Replacement of Center Plate)
Brake Connecting Pin	Cotter Keys
Brake Head Wear Plates	Roller Bearing Adapters
Air Brakes	Air Hose Supports
Hand Brakes	
Brake Beams and Levers	
Truck Springs	
Door Hardware (Not Replacement of Door)	

EXHIBIT C

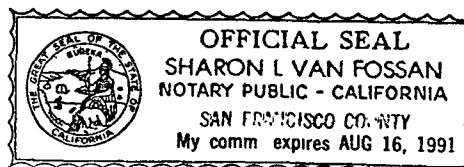
GUARANTEED BASE RENT

<u>Reporting Marks and Numbers</u>	<u>Per Car Per Month</u>	<u>Per Car Per Day</u>
NLG 7101-7119		
NLG 7120-7122 7180-7229		
NLG 7150-7179		

STATE OF CALIFORNIA)
) ss:
COUNTY OF SAN FRANCISCO)

~~ROBERT KIEHL~~ On this 19th day of September, 1989, before me personally appeared ~~Desmond P. Hayes~~, to me personally known, who being by me duly sworn says that such person is ^{VICE}~~President~~ and ^{TREASURER}~~Chief Executive Officer~~ of ITEL Rail Corporation, that the foregoing Schedule No. 1 was signed on behalf of said corporation by authority of its board of directors, and such person acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Sharon L. Van Fossan
Notary Public



STATE OF Mississippi)
) ss:
COUNTY OF Hinds)

On this 12th day of September, 1989, before me personally appeared H F Salmon, to me personally known, who being by me duly sworn says that such person is VP & CTO of MidLouisiana Rail Corporation, that the foregoing Schedule No. 1 was signed on behalf of said corporation by authority of its board of directors, and such person acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Donna R May
Notary Public

My Commission Expires May 9, 1992